



*United States Attorney
Southern District of New York*

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January 8, 2024

VIA ECF

The Honorable Alvin K. Hellerstein
United States District Judge
Southern District of New York
500 Pearl Street
New York, New York 10007

**Re: *United States v. Sung Kook (Bill) Hwang, et al.*,
22 Cr. 240 (AKH)**

Dear Judge Hellerstein:

The Government respectfully writes in response to the defendants' motion to preclude the Government from using certain order management data at the trial scheduled to begin on February 20, 2024. (ECF Doc. 110-112). The Government respectfully requests that it be permitted to file an opposition brief by no later than this Friday, January 12, 2024.

The defendants' motion is a naked attempt at gamesmanship, seeking to preclude the Government from offering relevant, admissible evidence produced more than six weeks before trial in an effort to avoid having a jury decide the charges on the actual facts. Notably, the defendants seek to preclude the Government from using this evidence—presumably because it is inculpatory—while at the same time, for inflammatory and rhetorical effect, suggesting that the evidence they want precluded is exculpatory. Perhaps more importantly, in order to accomplish these goals, the defense omits material facts concerning the Government's recent production and misleads with respect to others.

For the Court's immediate awareness, on Friday, January 5, 2024, the Government produced order management systems records obtained from Bloomberg (the "Bloomberg EMSX Data"). The EMSX Data comprised two excel files—substantially duplicative of each other—and contained data captured by the EMSX order management system used by Archegos. The Government obtained EMSX order management records from Archegos itself as well and had previously produced those records (the "Archegos EMSX Data"). The Bloomberg EMSX Data differs from the Archegos EMSX Data principally in that it contains order routing and handling metadata, such as child order information, routing information, and handling instructions absent from the Archegos EMSX Data.

Government counsel mistakenly believed that the Bloomberg EMSX Data had been produced to the defense in 2022. When Government counsel recognized that the two excel files

containing the Bloomberg EMSX Data had not been produced, the Government explained the oversight to the defendants and produced the Bloomberg EMSX Data immediately. It is simply not the case, as the defendants suggest, that the data produced by the Government was entirely new—the Bloomberg EMSX excel files are substantially duplicative of each other and provide further order handling details regarding orders and trading in the tickers reflected in the Archegos EMSX Data, Hwang's Bloomberg message trades commands, and the counterparties' trade data, all of which has been produced. And the defendants—who have sophisticated counsel and have retained experts and consultants—have ample time to make use of the additional order management data contained in the Bloomberg EMSX Data. The Government, of course, is available to assist the defendants in doing so.

The Government intends to respond fully to the defendants' claims and requests for relief. The Government respectfully requests that it be permitted to file an opposition brief by no later than this Friday, January 12, 2024.

Respectfully submitted,

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Cc: Counsel of Record (via ECF)